

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN DOE,

Plaintiff,

05 Civ. 0737 (CLB)

- against -

***Memorandum and Order***

THE CHILDREN'S VILLAGE, et al.,

Defendants.

-----X  
Brieant, J.

Before this Court for consideration is the Report and Recommendation (Doc. 51) of the Hon. Lisa Margaret Smith, United States Magistrate Judge, filed in this case on October 14, 2005 together with Objections filed by the Defendant (Doc. 58) on November 10, 2005.


Familiarity with the Magistrate Judge's Report and Recommendation on the part of the reader is assumed. This Court agrees with the Magistrate Judge that an amendment of the Complaint to Show Plaintiff's Guardian *ad litem* as named Plaintiff should be granted if made. The Magistrate Judge should establish a prompt schedule for the making of such a Motion and a failure to do so within the time directed, unless excused, may be a basis for the dismissal of the action without prejudice.

This Court also agrees that the United States District Court has the power to correct claimed mistake in the Notice of Claim under the totality of the circumstances of this case and it should do so.

Accordingly, the Report and Recommendation of the Magistrate Judge is adopted as the decision of this Court. The Objections are overruled. Counsel for all parties shall proceed under the direction of the Magistrate Judge to get the case ready for a prompt trial.

SO ORDERED.

Dated: White Plains, New York  
November 16, 2005

  
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Charles L. Brieant, U.S.D.J.